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Filing date: **04/19/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|---------------------------|--|
| Proceeding | 91177939 |
| Party | Defendant Tennis Industry Association |
| Correspondence Address | NATHAN J. BREEN HOWE & HUTTON, LTD. 20 N. WACKER DR., SUITE 4200 CHICAGO, IL 60606 UNITED STATES njb@howehutton.com |
| Submission | Defendant's Notice of Reliance |
| Filer's Name | Nathan J. Breen |
| Filer's e-mail | njb@howehutton.com |
| Signature | /Nathan J. Breen/ |
| Date | 04/19/2010 |
| Attachments | _0419182911_001.pdf (9 pages)(340903 bytes) |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

| | | | |
|-----------------|---|------------------------|----------------------------------|
| MIR RAHIM, |) | Mark: | CARDIO TENNIS HEART |
| |) | | PUMPING FITNESS (& Design) |
| Opposer, |) | | |
| |) | Serial No.: | 78/646,142 |
| v. |) | | |
| |) | Filed: | June 8, 2005 |
| TENNIS INDUSTRY |) | | |
| ASSOCIATION, |) | Opposition No: | 91177939 |
| |) | | |
| Applicant. |) | Examining Atty: | Tina Louis Snapp, Law Office 116 |
| |) | | |

APPLICANT'S NOTICE OF RELIANCE

Applicant, TENNIS INDUSTRY ASSOCIATION, pursuant to Trademark Rules 2.120(j) and 2.122(d) through (f) of the Trademark Rules of Practice, 37 C.F.R. §§ 2.120 and 2.122, hereby introduces into evidence the following Federal Trademark Application Serial Number 76661028 for "CARDIO TENNIS."

Respectfully submitted,

**TENNIS INDUSTRY
ASSOCIATION, INC.**


Attorney for Applicant

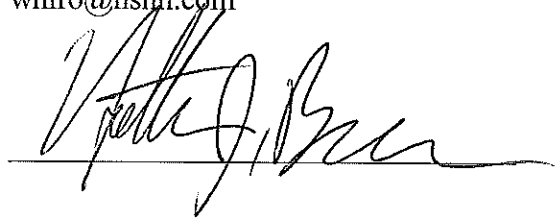
Nathan J. Breen
Howe & Hutton, Ltd.
20 N. Wacker Dr., Suite 4200
Chicago, IL 60606
Telephone: (312) 263-3001
Attorneys for Applicant

Dated: April 19, 2010

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **NOTICE OF RELIANCE** was electronically filed with the Trademark Trial and Appeal Board and that the same was served upon the attorney for Opposer on April 19, 2010 by overnight courier:

William L. Niro
NIRO, SCAVONE, HALLER & NIRO
181 W. Madison St., Suite 4600
Chicago, IL 60602-4515
wniro@nshn.com

A handwritten signature in black ink, appearing to read "William L. Niro", is written over a horizontal line.



06-05-2006

U.S. Patent & TMOfo/TM Mail Ropt Dt. #E

76661028

TRADEMARK APPLICATION SERIAL NO. _____

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

06/07/2006 HPHAM1 00000023 76661028

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U.S. Patent & TM Ofo/TM



76661028

~TRADEMARK/SERVICE MARK APPLICATION (15 U.S.C. §§ 1051, 1126(d)&(e))~
FOR REGISTRATION ON THE SUPPLEMENTAL REGISTER

~To the Commissioner for Trademarks~

<APPLICANT INFORMATION>

<Name> Mir Rahim
<Street> 7510 Tripp Avenue
<City> Skokie
<State> IL
<Country> USA
<Zip/Postal Code> 60076
<Telephone Number> 312.656.2618
<Fax Number> N/A
<e-Mail Address> N/A



06-05-2006

U.S. Patent & TMO/TM Mail Rpt Dt. #

<APPLICANT ENTITY INFORMATION>~Select only ONE~

<Individual: Country of Citizenship> United States
<Corporation: State/Country of Incorporation>
<Partnership: State/Country under which Organized> N/A
 <Name(s) of General Partner(s) & Citizenship/Incorporation>

<Other Entity Type: Specific Nature of Entity>
 <State/Country under which Organized>

TRADEMARK/SERVICE MARK INFORMATION>

CARDIO TENNIS

The mark may be registered in standard character format or in special form. Applicant must specify whether registration is sought for the mark in standard character format or in a special form by entering "YES" in the appropriate space below.

<Standard Character Format> The mark is presented in standard character format without claim to any particular font style, size or color.

Enter YES, if appropriate YES

<Stylized or Design Format> Enter YES, if appropriate _____

ATTACH a separate piece of paper that displays the mark you want to register (a "drawing" page), even if the mark is simply a word or words. Display only the exact mark you want to register on the additional piece of paper. Do not display advertising material or other matter that is not part of the mark. Please see additional HELP instructions.

76661028

<BASIS FOR FILING AND GOODS/SERVICES INFORMATION>

<Use in Commerce: Section 1(a)>~Applicant is using or is using through a related company the mark in commerce on or in connection with the below-identified goods and/or services (15 U.S.C. §1051(a)).~

<International Class Number(s)> 41

<Listing of Goods and/or Services>~List in ascending numerical class order. Please see sample in HELP instructions.~

Providing physical fitness instructions and programs featuring tennis training

<Date of First Use Anywhere> 4/16/1995

<Date of First Use in Commerce> 4/16/1995

~Submit one (1) SPECIMEN for each international class showing the mark as used in commerce.~

<Intent to Use: Section 1(b)>~Applicant has a bona fide intention to use or use through a related company the mark in commerce on or in connection with the below-identified goods and/or services (15 U.S.C. §1051(b)).~

<International Class Number(s)>

<Listing of Goods and/or Services>~List in ascending numerical class order. Please see sample in HELP instructions.~

<Foreign Priority: Section 44(d)>~Applicant has a bona fide intention to use the mark in commerce on or in connection with the below-identified goods/services, and asserts a claim of priority based upon a foreign application in accordance with 15 U.S.C. § 1126(d).~

<International Class Number(s)>

<Listing of Goods and/or Services>~List in ascending numerical class order. Please see sample in HELP instructions.~

<Country of Foreign Filing>

<Foreign Application Number>

<Date of Foreign Filing>

<Foreign Registration: Section 44(e)>~Applicant has a bona fide intention to use the mark in commerce on or in connection with the below-identified goods/services based on registration of the mark in applicant's country of origin.~

<International Class Number(s)>

<Listing of Goods and/or Services>~List in ascending numerical class order. Please see sample in HELP instructions.~

<Country of Foreign Registration>

<Foreign Registration Number>

<Foreign Registration Date>

<Foreign Registration Renewal Date>

<Foreign Registration Expiration Date>

~Submit foreign registration certificate or a certified copy of the foreign registration, in accordance with 15 U.S.C. §1126(e).~

<FEE INFORMATION>

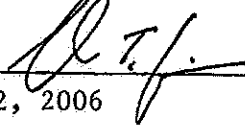
\$375.00 x <Number of Classes> 375.00 = <Total Filing Fee Paid>

<SIGNATURE INFORMATION>

~ Applicant requests registration of the above-identified mark in the United States Patent and Trademark Office on the Principal Register established by Act of July 5, 1946 (15 U.S.C. §1051 et seq.) for the above-identified goods and/or services.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.~

~Signature~



<Date> June 2, 2006

<Name> Michael T. Sawyer

<Title> Attorney for Applicant

<CONTACT INFORMATION>

<Name> Michael T. Sawyer

<Company/Firm Name> Law Offices of Michael T. Sawyer

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<City> Chicago

<State> IL

<Country> USA

<Zip/Postal Code> 60601

<Telephone Number> 312.856.9741

<Fax Number> 312.856.9743

<e-Mail Address> N/A

~TRADEMARK/SERVICE MARK APPLICATION (15 U.S.C. §§ 1051, 1126(d)&(e))~
FOR REGISTRATION ON THE SUPPLEMENTAL REGISTER

~To the Commissioner for Trademarks~

<APPLICANT INFORMATION>

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<Street> 7510 Tripp Avenue
<City> Skokie
<State> IL
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<Zip/Postal Code> 60076
<Telephone Number> 312.656.2618
<Fax Number> N/A
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06-05-2006

U.S. Patent & TMO/TM Mail Rpt Dt. #

<APPLICANT ENTITY INFORMATION>~Select only ONE~

<Individual: Country of Citizenship> United States
<Corporation: State/Country of Incorporation>
<Partnership: State/Country under which Organized> N/A
 <Name(s) of General Partner(s) & Citizenship/Incorporation>

<Other Entity Type: Specific Nature of Entity>
 <State/Country under which Organized>

TRADEMARK/SERVICE MARK INFORMATION>

CARDIO TENNIS

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<Standard Character Format> The mark is presented in standard character format without claim to any particular font style, size or color.

Enter YES, if appropriate YES

<Stylized or Design Format> Enter YES, if appropriate _____

ATTACH a separate piece of paper that displays the mark you want to register (a "drawing" page), even if the mark is simply a word or words. Display only the exact mark you want to register on the additional piece of paper. Do not display advertising material or other matter that is not part of the mark. Please see additional HELP instructions.

TENNIS MIXERS

Join us for an evening of social tennis. Meet new players and enjoy complimentary drinks and snacks.
 All are welcome!
 \$60 for Members and Nonmembers for the summer (effective June 1st)
 Jr's levels 3.0 - 6.0.
 7-10:00 pm

MEN'S & WOMEN'S OPEN COMPETITIVE PLAY

Days, level 4.5 and higher, summer hours 5:00 pm - 7:30 pm. Sign up at the Athletic Desk. Members \$14.00, Non-members \$17.00. Non-members must be at time of registration

TENNIS TOURNAMENTS

Men's 4.0 Doubles NTPP Tournament
 July 2nd - 5th. Cost \$35 per team.

Annual Meacham's Mixed Doubles Tournament
 October 14th-16th. Cost \$40 per team.

Enrollment, Payment and Make-up Policies

All members will be billed on their Lakeshore account

Non members must pay at the time of registration

Fee is non-refundable except as follows:

- medical disabilities a refund or a credit less a 10% processing charge shall be given from the date the refund is requested when accompanied with a doctor's statement explaining the nature of the disability or injury.
- a refund or credit less a 10% processing charge shall be given to a student who drops a class before the first class.
- a student shall be given a refund or credit should a class be cancelled after the start of the session.
- if a class is cancelled, Lakeshore Athletic Club will make every effort to reschedule the class on a date agreeable to all students

There are no make-ups to ensure class consistency and quality. The Athletic Director must approve any exception.

There is a minimum and maximum enrollment per class.

The Athletic Director may only approve refunds or credits.

Prior to 3 weeks before the session is ending, you must pre-register to guarantee a spot in the next session.

Athletic members pay an additional fee of 25% and may enroll for one session only.

Non-members are allowed to take lessons in non- prime hours, for an additional fee of 25% and for one session only.

A 20% late fee will be added to the class fee if payments are not made by two weeks into the class.

Any participant paying weekly will pay \$5.00 more per hour per class.

Tennis General Information

Courts: 8 indoor tennis courts
 4 outdoor tennis courts
 2 platform tennis courts

Court time: Tennis court time is divided into prime and non-prime time.

Tennis Prime Time \$20/hour
 Monday - Friday 4:00 - 10:00 pm
 Saturday & Sunday 8:00 - 6:00 pm
 Outdoor Courts \$14.00/hour

Tennis Non-Prime Time \$14/hour
 Monday - Friday before 4:00 pm
 Saturday & Sunday before 8:00 am
 after 6:00 pm

Outdoor Courts \$10.00/hour

Court Reservations: The reserving of court time is made through the Athletic Desk at ext. 136. Members are requested to give their membership number and phone number when reserving courts. Reservations are accepted 7 days in advance. You may call 8 am - 9 pm Monday - Friday and 8 am - 6 pm weekends. Payment is made upon check-in at the desk. Athletic members pay an additional \$12/hour

Court Cancellations: Court reservations may be cancelled at no charge if the cancellation is 24 hours in advance. Any court cancellation less than 24 hours is subject to the sale of the court. If the court is not sold, the member will be charged. Any member who reserves a court and does not show for the court will be charged.

Ball Machine: The ball machine and court may be reserved by calling the Athletic Desk at ext. 136. Balls are included in the court fee, \$14.00 non-prime and \$20.00 prime time. Members may rent the ball machines during prime time on a walk on basis only. (We now have a "serving" ball machine available.)

Comparison of Athletic vs. Tennis Memberships: If you are an athletic member who plays tennis or are thinking about taking it up, you may want to change to a tennis membership. Your athletic membership requires you to pay \$12.00 more per court per hour, and 25% more for group lessons than tennis members. Why not look at what a tennis membership can offer you in savings?

| | Athletic | Tennis |
|--|----------|--------|
| Prime Time Court | \$32 | \$20 |
| Non-Prime Time Court | \$26 | \$14 |
| Group Lessons (Prime) 8-week session | \$170 | \$136 |
| Group Lessons (Non-Prime) 8-week session | \$160 | \$128 |
| Individual Monthly Dues | \$85 | \$60 |
| Family Monthly Dues | \$144 | \$154 |

Any individual upgrading to a tennis membership for an additional \$60.00 per year in dues, will recover that cost if he/she plays tennis just 5 times a year. If you would like more information on upgrading to a tennis membership please contact Mr. Rahm at ext. 132.

Lakeshore ATHLETIC CLUBS

1997 Summer Tennis Program



Summer Court Time 1/2 Off! See inside for details!

- Private Lessons
- Adult Tennis Groups
- Leagues
- Drill & Play
- Cardio Tennis
- Mixers
- Tournaments

1320 W. Fullerton • Chicago, Illinois 60614
 (773) 477-9888 Ext. 136

Summer Tennis Registration Form 1997

Name _____ Membership # _____
 Address _____ City _____ Zip _____
 Work Phone _____ Home Phone _____
 Instructor/Activity _____ Ability _____
 Please check _____ Night Instructor Tennis League _____ Create A Group _____
 List all available days and times you are able to participate in lessons, etc. _____
 One or Two Hour Class _____ Number of Weeks _____ Amount _____
 Session Date: _____ May 27th - July 20th (6 week) _____
 _____ July 21st - September 21st (8 week) * no class August 25th through September 1st.

All members will be billed on their Lakeshore account. Non-members must pay at time of registration. Athletic members & non-members pay 25% more for lessons.
 -Refunds at the discretion of the Athletic Director-No make-ups to ensure class quality & consistency

Signature _____

Dear Member,

At Lakeshore Athletic Club we offer a wide variety of tennis programs. It is important to attend a tennis rating clinic before registering for any of these programs so that you are placed at the correct level. Please call the athletic office at (773) 477-9838 ext. 136 to sign up for a rating clinic. Our office hours are Monday - Friday, 8:00 am to 8:00 pm and Saturday & Sunday 8:00 am to 4:00 pm.

Sincerely,
 Mir Rahim/Athletic & Tennis Director

M.T.R.P. RATING CLINICS

| DAYS | TIMES |
|----------|-----------|
| Tuesday | 6-7 p.m. |
| Thursday | 1-2 p.m. |
| Thursday | 6-7 p.m. |
| Saturday | 9-10 a.m. |

SUMMER GROUP TENNIS SESSIONS

Summer court time is 1/2 off for members in the 8-week group tennis sessions in prime and non prime times.
 May 27th - July 20th or July 21st - September 21st - 8 weeks
 No class August 25 through September 1st
 Prime Time - \$17/hour, Non-Prime Time - \$16/hour
 \$12/hour - Early Birds

Lakeshore Athletic Club offers adult group lessons and Drill & Play groups Monday through Sunday, daytime and evening classes, at all levels of playing ability. You can be placed in a current class or you and your friends can create your own class by filling out the registration form at the end of the brochure. We also offer Early Bird, Weekend Drill & Play and Night Instructional Tennis Leagues and those days and times are listed below. If you have any questions you may contact ext.136.

Adult Tennis Groups
 Prime Time 8-week session
 One Hour Class
 Two Hour Class

Membership
 Tennis \$136
 Athletic \$170
 \$272 \$340

Non Prime Time 8-week session
 One Hour Class
 Two Hour Class

Tennis \$128
 Athletic \$160
 \$256 \$320

DRILL & PLAY GROUPS

| Early Birds | Level | Time | Membership |
|-------------|---------------|----------------|-----------------|
| Day | Intermediates | | Tennis Athletic |
| Tuesday | 3.5-4.0 | 6:00 - 7:30 am | \$144 \$180 |
| Thursday | 3.5-4.0 | 6:00 - 7:30 am | \$144 \$180 |
| Wednesday | 2.5-3.0 | 6:00 - 7:30 am | \$144 \$180 |

* Daytime and evening classes available.

WEEKEND DRILL & PLAY

| Advanced Player | Time | Membership |
|-------------------|------------------|-----------------|
| Sunday | 4.0-5.0 | Tennis Athletic |
| Sunday | 10:00 - 12:00 pm | \$272 \$340 |
| Intermediates | | |
| Sunday | 3.5-4.0 | \$272 \$340 |
| Low Intermediates | | |
| Sunday | 3.0-3.5 | \$272 \$340 |

CREATE YOUR OWN GROUP

Tell us what days and times are good for you to play and we will create a group for you!

LEAGUE PLAY

Weekend Structured Leagues (Doubles Play)

| Advanced Intermediates | Time | Membership |
|------------------------|------------------|-----------------|
| Saturday | 4.0 | Tennis Athletic |
| Saturday | 8:00 - 10:00 am | \$140 \$175 |
| | 4.5 | |
| | 10:00 - 12:00 pm | \$140 \$175 |
| Advanced Player | Time | Membership |
| | 12:00 - 2:00 pm | \$140 \$175 |
| Low Intermediates | Time | Membership |
| | 3.5 | |
| | 2:00 - 4:00 pm | \$140 \$175 |
| | 3.0 | |
| | 4:00 - 6:00 pm | \$140 \$175 |
| Advanced Beginners | Time | Membership |
| | 2.5 | |
| | 6:00 - 8:00 pm | \$140 \$175 |

Night Instructional Tennis Leagues (Singles Play)

| Advanced Players | Time | Membership |
|------------------------|-----------------|-----------------|
| Tuesday | 5.0 | Tennis Athletic |
| Tuesday | 9:00 - 11:00 pm | \$264 \$330 |
| Advanced Intermediates | Time | Membership |
| Wednesday | 4.5 | |
| | 9:00 - 11:00 pm | \$264 \$330 |

PRIVATE & SEMI-PRIVATE LESSONS

Private and semi-private lessons are offered daytime, evening and weekends. Lessons may be booked weekly or prepaid. We suggest if you are going to take lessons for several weeks to prepaid, so you are assured to get court time and pro of your choice each week.

COST: \$39/hour non-prime time
 \$44/hour prime time
 \$52/hour semi-private (2 people only)

NO PRIVATE LESSONS MAY BE TAKEN

6 pm - 9 pm Mon - Fri, or
 9 am - 12 Noon Sat, or Sun.
 from Sept. 1st to May 31st.

CHALLENGE LADDER

Lakeshore Athletic Club has a Daytime Doubles Challenge Ladder and is starting a Men's & Women's Singles Challenge Ladder. Our main objective with the Challenge Ladder is to create an atmosphere of fun, yet competitive play, for all the members. The Challenge Ladder will run year round.

FLEXIBLE LEAGUE (Co-ed Singles Play)

Players looking for new partners to play with will find flexible leagues an excellent opportunity to play more frequently in a competitive situation. The Tennis Coordinator makes a round robin schedule and the players follow the schedule each week at a convenient time.

\$140/person for any time
 \$ 75/person from 6:00 am - 4:00 pm Mon - Fri.

Please contact the Athletic Office at ext. 136 for more league information and times.

CARDIO TENNIS

Need a change or just want to add variety to your present cardiovascular workout, then you must try this new concept in tennis. Cardio Tennis can help you burn up to 750 calories per session. Contact the Athletic Office for further information, or to register for classes, at ext. 136.

| Times: | |
|-----------|--|
| Monday | 11:00 am - 12:00 pm 6:00 pm - 7:00 pm |
| Tuesday | 10:00 am - 11:00 am 11:00 am - 12:00 pm |
| Wednesday | 6:00 pm - 7:00 pm |
| Thursday | 10:00 am - 11:00 am 11:00 am - 12:00 pm |
| Friday | 12:00 pm - 1:00 pm 12:00 Noon |
| Saturday | 10:00 am - 11:00 am |

COST: \$10/hour per person - prime time
 \$9/hour per person - non-prime time
 \$72/9 session prime time package
 \$63/9 session non-prime time package

*First time participants receive a free trial pass.

*Prepaid group members receive 50% off.